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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/929,039	08/15/2001	Daniel Lcontiev	OE-89	1874

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WASHINGTON, DC 20036-3506

EXAMINER
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NASH, LASHANYA RENEE

ART UNIT	PAPER NUMBER
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2153

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	01/19/2007	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

<b>Office Action Summary</b>	<b>Application No.</b> 09/929,039	<b>Applicant(s)</b> LEONTIEV ET AL.	
	<b>Examiner</b> LaShanya R. Nash	<b>Art Unit</b> 2153	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 26 October 20006.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 18 and 19 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 18-19 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948)                        | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

This Action is in response to an Amendment filed 26 October 2006. Claims 18-19 are presented for further consideration. Claims 1-10 are cancelled. Claims 11-17 are cancelled. Claims 18-19 are new.

### ***Response to Amendment***

Applicant's arguments filed 26 October 2006 have been fully considered but they are not persuasive.

In considering the Applicant's arguments the following factual remarks are noted:

(I) Applicant contends that status data, as in printers that is disclosed by Motoyama is non-analogous to the variable parameters management of the claims.

In considering (I), Applicant contends that Motoyama is non-analogous art. Examiner respectfully disagrees. Examiner notes it has been held that a prior art reference must either be in the field of applicant's endeavor or, if not, then be reasonably pertinent to the particular problem with which the applicant was concerned, in order to be relied upon as a basis for rejection of the claimed invention. See *In re Oetiker*, 977 F.2d 1443, 24 USPQ2d 1443 (Fed. Cir. 1992). In this case, Motoyama is reasonably pertinent to the problem with which the applicant was concerned. Examiner asserts that Applicant discloses that the present invention is directed towards providing a system that enables a remote supervisor or operator to receive information from an

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 18-19 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In reference to claim 19, the phrase "type" (line 9, "Ethernet-type") renders the claims indefinite because the claims includes elements not actually disclosed (those encompassed by "type"), thereby rendering the scope of the claims unascertainable. See MPEP § 2173.05(d). In order to expedite the examination process, Examiner interprets the limitation as "Ethernet" for the purposes of Prior Art rejections as set forth below in the Office action.

In reference to claims 18-19, the phrase "and/or" renders the claims indefinite. It is unclear as to whether the claims require "and" or "or", therefore the limitations can be considered with conflicting interpretations (i.e. control *and* supervising, control *or* supervising). In order to expedite the examination process, Examiner interprets the limitation as "and" for the purposes of Prior Art rejections as set forth below in the Office action.

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apparatus, using Internet linkage (Specification; page 5). Similarly, Motoyama is directed towards providing a method and system for remote diagnostic, control and information collection to a remote resource manager wherein the urgent information originates from the monitored and controlled device, via the Internet (column 2, lines 65-67; column 5, lines 27-37). Furthermore, Motoyama discloses that the aforementioned monitored device could be any type of a device that is desired to be remotely monitored and/or controlled inclusive of utility meters, which conventionally comprise sensors detecting weight, volume, voltage or temperature and is not limited to processing machine status information, as in printers, as suggested by Applicant (see Remarks page 4). Therefore, Examiner asserts that Motoyama is an analogous art, as the problem addressed by the reference is pertinent to the instant application (i.e. remote monitoring and control of machinery). Also, Examiner asserts that the functional environment suggested by Motoyama (i.e. meter equipment) is comparable to the Applicant's field of endeavor (i.e. instruments employed for test or measurement). As a result, the Examiner maintains rejections as set forth below in the Office action.

### ***Claim Objections***

Claim 19 is objected to because of the following informality: Grammatical error. Appropriate correction is required.

In claim 19, Applicant recites "Apparatus", in line 1. Examiner suggests replacing with "An apparatus".

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Regarding claims 18 and 19, the phrase "e.g." meaning "for example" (lines 6-7 and lines 5-6, "e.g., weight, volume, voltage or temperature") renders the claim indefinite because it is unclear whether the limitations following the phrase are part of the claimed invention. See MPEP § 2173.05(d). In order to expedite the examination process, Examiner interprets the limitation as "comprising one of weight, volume, voltage or temperature" for the purposes of Prior Art rejections as set forth below in the Office action.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

**Claims 18-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Venkatraman et al. (US Patent 5,956,487) in view of Motoyama et al. (US Patent 6,631,247), hereinafter referred to as Venkatraman and Motoyama respectively.**

In reference to claim 18, Venkatraman shows a method for employing a device with an embedded web server, in order to enable access of the device control interface via a remote location (column 2, lines 27-30 and column 2, lines 37-41). Venkatraman explicitly discloses the embedded web access method to comprise:

- An method of controlling or supervising variable parameter operation of a device at a remote location (i.e. device-specific user interface functions, column 3, lines 1-12; Figures 2&5-item 40) via a panel meter, process controller or signal conditioner (i.e. variety of devices, column 1, lines 14-27 and column 3) comprising:
- Detecting remote non-machine status variable parameter information comprising one of weight, volume, voltage or temperature from a sensor (i.e. lab equipment includes measurement devices such as oscilloscopes, spectrum analyzers and other types of measurement devices; column 3; Figure 1-item 10);
- Feeding the information to or from server equipment (i.e. web server; Figure 1a-item 14) embedded in the device (column 3, lines 13-26; column 4, lines 26-28; column 7, lines 24-29);
- Connecting the device to a network (i.e. network interface; Figure 1a-item 12); and
- Transmitting detected sensor information via the embedded server to or from the network (i.e. web browser of remote computing system allows web user access and control of user interface functions of a device across the network connection; column 5, lines 26-60; column 7, lines 30-36; column 3, lines 17-27), in which the server connection is made to a wide area network (WAN) (Figure 5-item 100; column 7, lines 52-56), or a local area network (LAN), (Figure 5-item 120; column 7, lines 57-67; column 3, lines 17-28).

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However Venkatraman does not explicitly show the method wherein the aforementioned WAN or LAN connections are using TCP/IP and characterized by MAC addresses.

Nonetheless, these would have been obvious modifications to the method as disclosed by Venkatraman for one of ordinary skill in the art at the time of the invention, as further evidenced by Motoyama.

In an analogous art, Motoyama shows a method employed to transmit machine status e-mails comprising gathered diagnostic, monitor, and control information of remote machines (abstract and column 3, lines 8-29). Motoyama further shows connecting to the WAN Internet (Figure 5-item 10; column 8, lines 55-60) or LAN Ethernet (Figure 4-item 230; Figure 5-item 274; column 8, lines 15-20; column 9, lines 42-46) using TCP/IP (column 3, lines 30-45). In addition, Motoyama inherently teaches MAC addresses through employing the TCP/IP transmission protocol. TCP/IP, in the data layer, indicates a specific hardware address (i.e. MAC address) to identify nodes of a network for proper transmission of data packets. These modifications to the aforementioned method as disclosed by Venkatraman would have been obvious, because one of ordinary skill in the art would have been motivated so as to employ convenient and well-established forms of communication to forward appropriate machine-based information to system users (i.e. resource manager), (Motoyama column 2, lines 32-38).



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In reference to claim 19, Venkatraman shows an embedding web access mechanism that provides network accessible user interface functions (abstract and column 2, lines 1-41). Venkatraman further shows:

- An apparatus (Figures 1a&1b) for controlling or supervising variable parameter operation of a device at a remote location (i.e. device-specific user interface functions, column 3, lines 1-12; Figures 2&5-item 40) via a panel meter, process controller or signal conditioner (i.e. variety of devices, column 1, lines 14-27 and column 3) comprising:
- A detector of non-machine status variable parameter information comprising one of weight, volume, voltage or temperature, not machines (i.e. lab equipment includes measurement devices such as oscilloscopes, spectrum analyzers and other types of measurement devices; column 3; Figure 1-item 10);
- A server (i.e. web server; Figure 1a-item 14) embedded in the apparatus and operatively connected to a network (column 3, lines 13-26; column 4, lines 26-28; column 7, lines 24-29), connected (i.e. network interface; Figure 1a-item 12) to a wide area network (WAN) comprising the Internet (Figure 5-item 100; column 7, lines 52-56), or a local area network (LAN), (Figure 5-item 120; column 7, lines 57-67) comprising an Ethernet network (column 4, lines 17-28) to transmit information to or from the network; and
- Processor means (i.e. remote computer system; Figures 2&5-item 40; column 5, lines 29-67) to access the apparatus to receive information regarding

supervision of operation of the apparatus and to modify the operation of the apparatus (i.e. web browser of remote computing system allows web user access and control of user interface functions of a device across the network connection; column 5, lines 51-60; column 7, lines 30-36; column 3, lines 17-27).

However Venkatraman does not explicitly show the apparatus wherein the aforementioned WAN or LAN connections are using TCP/IP and characterized by MAC addresses. Nonetheless, these would have been obvious modifications to the Mechanism as disclosed by Venkatraman for one of ordinary skill in the art at the time of the invention, as further evidenced by Motoyama.

In an analogous art, Motoyama shows a system employed to transmit machine status e-mails comprising gathered diagnostic, monitor, and control information of remote machines (abstract and column 3, lines 8-29). Motoyama further shows connecting to the WAN Internet (Figure 5-item 10; column 8, lines 55-60) or LAN Ethernet (Figure 4-item 230; Figure 5-item 274; column 8, lines 15-20; column 9, lines 42-46) using TCP/IP (column 3, lines 30-45). In addition, Motoyama inherently teaches MAC addresses through employing the TCP/IP transmission protocol. TCP/IP, in the data layer, indicates a specific hardware address (i.e. MAC address) to identify nodes of a network for proper transmission of data packets. These modifications to the aforementioned mechanism as disclosed by Venkatraman would have been obvious, because one of ordinary skill in the art would have been motivated so as to employ convenient and well-established forms of communication to forward appropriate

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machine-based information to system users (i.e. resource manager), (Motoyama column 2, lines 32-38).

### ***Conclusion***

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to LaShanya R Nash whose telephone number is (571) 272-3957. The examiner can normally be reached on 9am-5pm.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Glenton Burgess can be reached on (571) 272-3949. The fax phone

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number for the organization where this application or proceeding is assigned is (571) 273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

LaShanya Nash  
Art Unit, 2153  
January 10, 2007

  
RUPAL DHARIA  
SUPERVISORY PATENT EXAMINER